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NORMANDY UNDER WILLIAM THE CONQUEROR¹

THE Anglo-Norman state of the twelfth century is one of the most interesting phenomena in the history of European institutions. Whether in the extent and cohesion of its territory, in the centralized authority of its rulers, or in the precocity and vigor of its administrative system, whose many-sided activity can still be traced in writ and roll and exchequer record, the Anglo-Norman kingdom finds no parallel in the western Europe of its time. Moreover, on its institutional side at least, it was no local or temporary affair. Themselves the product of a variety of elements—Anglo-Saxon, Danish, Frankish, not to mention the more immediate Norman and Angevin—the contemporary influence of Anglo-Norman institutions extended from Scotland to Sicily, while their later outgrowths are to be seen in the imitation of Norman practices by the kings of France, as well as in the whole fabric of English government.

Of the two sets of institutions which were suddenly brought together in 1066 and continued side by side under the same rulers for a century and a half, those of Normandy are much the more obscure. It is not, of course, implied that investigation of the Anglo-Saxon period has reached its limits: within a dozen years the labors of Maitland and Liebermann, of Round and Vinogradoff—to mention no others—have shown what can be done, and what remains to be done, by a more scientific study of the Domesday survey and the legal sources and by a wider view of the relations of England to the Continent, and the next few years are likely to see considerable additions to our knowledge in these directions. Still the mere mention of these scholars and the sources which are at their disposal shows the great advantage of England over Normandy, both before and after the Conquest. It is only natural that the history of Normandy should generally have been approached, as in the classic researches of M. Léopold Delisle, from the point of view of France rather than of England, and although it is forty years since Professor Brunner first showed the way to a broader study of Anglo-Norman legal history, little has been done to apply his method to new materials and other problems. The paucity of

¹A summary of this article was read before the International Congress of the Historical Sciences at Berlin in August, 1908, and before the American Historical Association in December, 1908.

sources is, of course, the great obstacle. Normandy has no Domesday and no dooms. Its earliest law-book, the older part of the *Très-Ancien Coutumier*, dates from the very end of the twelfth century, and while there are indications of the existence of a distinctly Norman body of custom before 1066,² the only formulation of the law of the Conqueror's day is a brief statement of certain of the ducal rights drawn up four years after his death by order of his sons.³ There is almost no contemporary evidence for the tenth century, and although Dudo of St. Quentin is useful so far as he reflects the conditions of his own age, for the greater part of the eleventh century we have only narratives put together two or three generations later.⁴ Our main reliance must be upon the charters, and even here, such has been the destruction of Norman records, the body of materials is less than for contemporary England or for such adjacent regions as Anjou and Flanders, and is especially small for the earlier part of the Conqueror's reign.⁵ A large part of this documentary material is still unprinted and unsifted, but the systematic study of the diplomatic sources of Anglo-Norman history is now being attacked from three sides—by M. Ferdinand Lot for the early dukes, by Mr. H. W. C. Davis for the English charters from the Conquest to 1154, and by the author of this paper, with the assistance of the Carnegie Institution of Washington, for the Norman charters from the accession of William I. to the point where M. Delisle's great work on the acts of Henry II. is to begin.

² "Donavi apud Argentias leuam iuxta morem patriae nostrae." Charters of Robert I. for Fécamp, preserved in the original in the Musée de la Bénédictine at Fécamp, nos. 3 bis, 4 bis. "Consuetudines quoque et servicia omnia que de terra exeunt secundum morem Normannie." Charter of William I. for Mont St. Michel, 1054, in Delisle, *Histoire du Château et des Sires de Saint Sauveur-le-Vicomte* (Valognes, 1867), pièces, no. 24. In 1074 Roger, earl of Hereford, is tried "secundum leges Normannorum". Ordericus Vitalis, ed. Le Prévost, II. 264.

³ "Hee sunt consuetudines et iusticie quas habet dux Normannie in eadem provincia." Printed as part of the acts of council of Lillebonne by Martène and Durand, *Thesaurus Anecdotorum* (Paris, 1717), IV. 117, and reprinted in Mansi, *Concilia*, XX. 575, and Migne, *Patrologia*, CXLIX. 1329. I have given a critical edition in the *English Historical Review* (1908), XXIII. 502-508.

⁴ The *Gesta Guillelmi* of William of Poitiers is of course an exception, as is also the first redaction of the work of William of Jumièges, when a critical edition shall have restored it to us.

⁵ The Bibliothèque Nationale possesses (MS. Lat. n. a. 1243) a collection of copies of William's charters made by the late Achille Deville, which, though far from complete, is of considerable convenience. Round's *Calendar of Documents preserved in France* is serviceable, so far as it goes.

Where manuscripts are cited below without the mention of any library, they are in the Bibliothèque Nationale.

Until the completion of these undertakings any treatment of Norman history must be provisional, and even then we cannot hope to study the interaction of Frankish and Scandinavian elements in the tenth century or the government of the first dukes. For lack of sufficient earlier evidence the study of Norman institutions must begin about half a century before the Conquest of England, with the chronicle of Dudo and the charters of the later years of Richard II. Even for this period we shall find the material too fragmentary to yield conclusions on many points, and we shall need to supplement it from the more abundant, but still meagre, records of the latter part of William the Conqueror's reign. Ideally what we should most wish is a picture of Normandy at the moment of the invasion of England, but as a practical problem we shall find it hard enough to piece out some account of the government of Normandy if we use all of the sources of the Conqueror's reign, defining wherever possible the points that can be established as prior to 1066.

First of all, it is plain that Norman society in 1066 was a feudal society. Feudalism, however, may mean a great many different things,⁶ and we must seek to determine what specifically feudal institutions existed, keeping in mind always those which are significant with reference to subsequent English developments. Vassalage and dependent tenure meet us on every hand, and while there are holdings for life⁷ and the word *allod* occurs,⁸ though not always with a very exact technical meaning, most land seems to be held by hereditary tenure of some lord. There are degrees of such tenure, and in some instances subinfeudation is well advanced,⁹ but it is impossible to say whether all land was supposed to be held ultimately of the duke. Some measure of the extent to which feudal ideas had gone in early Normandy may be got from the indications of their disintegrating influence upon the Church. Before 1046 a provincial council prohibits bishops from granting the lands and

⁶ Cf. Pollock and Maitland, *History of English Law*, second edition, I. 67; Adams, "Anglo-Saxon Feudalism", *AMERICAN HISTORICAL REVIEW*, VII. 11-35. Pollock and Maitland's chapter on Norman Law, though brief, contains the best account of conditions before the Conquest, and it is not necessary to repeat what is there said of feudal tenure. Cf. Stenton, *William the Conqueror* (New York, 1908), pp. 31-43.

⁷ *E. g.*, Bibliothèque Nationale, Collection Moreau, XXI. 8, 9, 25, 30.

⁸ *E. g.*, "Trado autem ipsum alodium S. Juliani . . . sicut Adam meus vasallus de me tenuit." Charter of William I. for St. Julien de Tours, MS. Lat. 5443, p. 49.

⁹ *English Historical Review*, XXII. 644, 647.

revenues of the clergy as benefices to laymen,¹⁰ and the need of such legislation appears from the case of Bishop Robert of Coutances, who gave cathedral prebends as fiefs to his relatives.¹¹ The feudal relation might be created out of other ecclesiastical rights besides land, as when the bishop of Bayeux granted in fee the episcopal *consuetudines* of several parishes¹² or the archbishop of Rouen turned an archdeaconry into an hereditary fief.¹³

In return for their lands the Norman barons rendered military service to the duke or to their immediate overlord, and by 1066 the amount of this service had been definitely fixed and had in many cases become attached to specific pieces of land, or knights' fees.¹⁴ Usually the service was reckoned in units of five or ten knights, a practice which the Normans seem to have carried to southern Italy¹⁵ as well as to England. The period of service, so far as it is indicated in documents of the Conqueror's reign, is regularly forty days.¹⁶ Castle-guard is mentioned, though rarely,¹⁷ and suit of court and *gîte* might be stipulated in making a grant.¹⁸ Of the

¹⁰ Council of Rouen (1037-46), c. 10, Mansi, *Concilia*, XIX. 753.

¹¹ Before 1048. *Gallia Christiana*, XI. instr. 218. Cf. also in the cartulary of the chapter of Rouen (MS. Rouen 1193, ff. 31, 54v) the account "quomodo villa de Duverent de dominicatu archiepiscopatus exiit".

¹² *Gallia Christiana*, XI. instr. 63, 335. Cf. also Ordericus, ed. Le Prévost, III. 473, V. 183; Imbart de la Tour, in *Revue Historique*, LXVIII. 49.

¹³ Ordericus, II. 132.

¹⁴ Haskins, "Knight-Service in Normandy in the Eleventh Century", *English Historical Review* (1907), XXII. 636-649. The conclusions there suggested as probable are made practically certain by a charter of 1066 (Archives Nationales, JJ. 71, no. 90; printed in Le Prévost, *Mémoires et Notes pour servir à l'Histoire du Département de l'Eure* (Evreux, 1862-1869), III. 183, where the date is incorrectly given as 1076) which shows the bishop of Avranches rendering the service of five knights for the honor of St. Philibert. As the bishop in 1172 also owed the service of five knights for his lands in the Avranchin, it is altogether likely that this obligation had been imposed upon him before he received the gift of St. Philibert in 1066; and as St. Philibert had been until that time a lay fief, of which half was then given to the bishopric, it is evident that the whole had been an honor of ten knights.

¹⁵ See the *Catalogus Baronum* of 1154 ff. in Del Re, *Cronisti e Scrittori Napoletani* (Naples, 1845), I. 571; and on its date and character cf. Capasso, in *Atti della Reale Accademia di Archeologia* (1868), IV. 293-371; Chalandon, *Histoire de la Domination Normande en Italie et en Sicile* (1907), I. vi-viii, II. 510-524; von Heckel, in *Archiv für Urkundenforschung* (1908), I. 389 ff.

¹⁶ *English Historical Review*, XXII. 646-647.

¹⁷ *Ibid.*; Ordericus, II. 74; Round, *Calendar*, no. 319; *Historiens de France*, XXIII. 701. On its appearance in England shortly after the Conquest, see Round, in *Archaeological Journal*, LIX. 144.

¹⁸ "Gausfredo clerico cognomento Masculo unum ortum dedi de prefato alodio ut inde serviret michi, et alium Evremaro xi^{elm} solidos redditentem per annum, pro quo idem Evremarus interesset meis placitis si necesse fuisset et quotiens venirem Baiocas per annum preberet michi de suo prima nocte vinum

feudal incidents relief, wardship, marriage, and the three aids appear, but the evidence is of a scattered sort and comes mainly from the latter part of the reign.¹⁹ In addition to the feudal service the duke in his charters was careful to retain the right of calling out the general levy of the country in case of invasion,²⁰ and from the care with which his vassals reserve this obligation as regards their dependents and even their townsmen,²¹ it would seem that the duke held the lords responsible for producing their men when occasion arose.²² Materials are lacking for any comparison of this system with the Anglo-Saxon *fyrd*, but it is highly probable that the familiarity of the Norman kings with the *arrière-ban* in the duchy made natural that preservation of the *fyrd* which is usually set down to deliberate desire to maintain Anglo-Saxon popular institutions. It should also be noted that the ordinance which, a century later, is generally said to have recreated and rearmed this ancient force of the *fyrd*,²³ the Assize of Arms of Henry II., is drawn on the same lines as an earlier assize for Henry's continental dominions.²⁴

Intimately connected with feudal tenure is the matter of feudal jurisdiction. First of all, there is the jurisdiction which is strictly feudal, the justice of the feudal lord over his tenants. Robert of Bellême has an important court of his barons.²⁵ The monks of St. Evroul have their court, in which they may declare the forfeiture of a fief.²⁶ The honor of Ralph Taisson has its barons, who can be summoned to record against encroachment the title of the

et cervisam et panem factitium per consuetudinem et victum equorum. Et hoc testimonio regine domine mee, et si opus haberem acederet michi usque ad centum solidos in civitatem." Notice of grants by Rainald, chaplain of King William, MS. Lat. n. a. 1243, f. 80v.

¹⁹ *English Historical Review*, XXII. 646-648; Ordericus, III. 42; Round, *Calendar*, no. 320 (relief). Cf. Pollock and Maitland, I. 71.

²⁰ Guilhiermoz, *Essai sur l'Origine de la Noblesse* (Paris, 1902), pp. 289-292. It should be borne in mind that the Bayeux returns of 1133, where the name *arrière-ban* first appears in Normandy, represent the conditions of Bishop Odo's time (*English Historical Review*, XXII. 643). Wace (ed. Andresen, II. lines 5205 ff.) mentions the calling out of the peasants against the king of France in 1058.

²¹ See, besides the Bayeux returns, Ordericus, III. 36, 39.

²² Cf. the Worcestershire custom, Maitland, *Domesday Book and Beyond*, p. 159. On the *fyrd* in general use see Vinogradoff, *English Society in the Eleventh Century*, p. 22 ff.

²³ Stubbs, *Select Charters*, p. 154; *Constitutional History*, I. 632.

²⁴ Benedict of Peterborough, I. 269; Guilhiermoz, *l. c.*, pp. 225-227.

²⁵ Archives of the Orne, H. 2150; Bry, *Histoire du Pays et Comté du Perche* (Paris, 1620), pp. 82, 103; Round, *Calendar*, no. 654.

²⁶ Ca. 1056, Ordericus, II. 60, 75. Cf. Round, *Calendar*, nos. 116 (Fécamp), 713 (Mont St. Michel).

abbey of their lord's foundation.²⁷ The honor which William Paine holds of the abbot of Mont St. Michel has a court of seven peers, who owe service according to the custom of their ancestors, and there are also separate courts for his manors.²⁸ Besides this feudal justice, there is the jurisdiction which is franchisal, arising from the grant of public rights by the sovereign, the justice which men will one day say has nothing in common with the fief. We cannot in the eleventh century draw the line separating these two sorts of jurisdiction with the sharpness which later feudal law permits;²⁹ the justice of the feudal lord may owe something to royal grant, and the holder of the franchise may not always be able to point to the act which created it, yet the distinction seems thus early justified by the facts.

We must at the outset give up any attempt to follow the Norman franchises back into Frankish days. Doubtless Norman churches enjoyed the immunity which all such bodies were supposed to possess under Louis the Pious,³⁰ and some had more specific privileges;³¹ but the nature and development of the immunity is obscure enough in those regions which have preserved an unbroken series of such grants,³² and in Normandy the coming of the invaders not only made a wide gap in our records, but produced important changes in the holders of land and probably in the rights exercised over it. The clearest case of continuity is furnished by Berneval-sur-Mer, which had been a dependency of St. Denis under the Frankish kings and was confirmed to the abbey by the first Norman dukes.³³ This confirmation was repeated by Richard I. in 968 in a charter which grants full immunity and all rights exercised in Berneval by count or viscount, *vicarius* or *centenarius*.³⁴ When we come to the charters of the eleventh century, the clause of immunity, though reminiscent of Frankish models, is shorter and more general. Richard II. grants

²⁷ *Gallia Christiana*, XI. instr. 65 (ca. 1070).

²⁸ *English Historical Review*, XXII. 647-648 (1070-1081).

²⁹ Cf. Esmein, *Cours d'Histoire du Droit Français*, third edition, p. 251 ff.; Maitland, *Domesday Book and Beyond*, p. 80.

³⁰ Brunner, *Deutsche Rechtsgeschichte*, II. 291.

³¹ *Historiens de France*, VI. 482 (St. Wandrille), VIII. 650 (St. Ouen).

³² For the literature of the controversy see Brunner, *l. c.*, II. 287 ff.; Seeliger, *Die Soziale und Politische Bedeutung der Grundherrschaft im früh-eren Mittelalter*, in the *Abhandlungen of the Leipzig Academy* (1903), XXII.; *id.*, *Historische Vierteljahrschrift*, VIII. 305 ff.

³³ Böhmer-Mühlbacher, *Regesten der Karolinger*, nos. 60 (58), 190 (186); Dudo of St. Quentin, ed. Lair, p. 171.

³⁴ *Historiens de France*, IX. 731.

to Fécamp³⁵ and Jumièges³⁶ the possession of their lands "without any disturbance of any secular or judicial authority as property belonging to the demesne fisc", and the same phrases appear, omitting the reference to the fisc, in his charters for Bernai³⁷ and St. Ouen.³⁸ The clause is not found in Richard's grant to Mont St. Michel, but appears in the charter of Robert I.,³⁹ who likewise made the sites of St. Amand and Mount St. Catherine's "immune from the judicial exaction" of his authority.⁴⁰ I have found no such clauses after Robert's time, though phrases are common which grant such protection as is enjoyed by the duke's demesne.⁴¹

How much, if any, actual authority these vague grants of immunity conveyed, it is impossible to say. Except in the very early instance of Berneval, they make no direct grant of fees or jurisdiction, and if they are more than a pious formula, it would seem that their primary purpose was to assure the duke's protection. It must be borne in mind, as one of the few points upon which there is fairly general agreement, that the Frankish immunity itself, what-

³⁵ "Haec omnia . . . concedo . . . ut habeant, teneant, et possideant absque ulla inquietudine cuiuslibet secularis vel iudicarie potestatis sicuti res ad fiscum dominicum pertinentes." Original in Musée de la Bénédictine at Fécamp, no. 2 ter; Du Monstier, *Neustria Pia* (Rouen, 1663), p. 217.

³⁶ Cartulary no. 22, f. 7, and *vidimus* of 1498 and 1529 in archives of the Seine-Inférieure.

³⁷ Le Prévost, *Eure*, I. 285; Du Monstier, *Neustria Pia*, p. 399.

³⁸ Pommeraye, *Histoire de S. Ouen* (Rouen, 1662), p. 405.

³⁹ *Mémoires des Antiquaires de Normandie*, XII. 111 (Round, no. 705).

⁴⁰ *Cartulaire de la Trinité du Mont de Rouen*, no. 1; *Monasticon*, VII. 1101.

⁴¹ Brunner, *Schwurgerichte*, p. 238 ff. The clauses of immunity in the charters for Fécamp require further investigation in connection with a critical study of the documents in which they occur. One charter of Robert I., preserved in the Musée (no. 4 bis), has the following clause, which is not found in another charter of the same duke (no. 3 bis) which has the same witnesses and much the same contents: "Ista igitur bona et omnia alia que Fischannensi monasterio olim donata sunt sub solius abbatis potestate et iustitia constituimus ut nullius dignitatis homo aliquando manum intromittere presumat". A supposed charter of William I. (*ibid.*, no. 7) makes the monastery's possessions "quietas ab omni inquietudine vel diminutione cuiuslibet secularis vel iudicarie potestatis sicut res ad fiscum dominicum pertinentes". These may perhaps be explained by the special favor with which Fécamp was regarded by the dukes; but certain of the early charters for this monastery are not above suspicion, and one of them (Delisle, *Histoire de S. Sauveur-le-Vicomte*, pièces, no. 43) is a rank fabrication, purporting to be issued by the Conqueror, but repeating the witnesses of Robert's charters (nos. 3 bis, 4 bis). A moment's glance at the pretended original in the Musée shows the futility of Round's attempt (*Calendar*, no. 113, and p. xxvi) to establish its authenticity against the arguments which Delisle drew from the list of witnesses, arguments based upon a method of criticism which Round has recently gone so far as to call more "primitive" and "crude" than his own (*Archaeological Journal*, LXIV. 78). Round's treatment of this charter has misled Stenton, *William the Conqueror*, pp. 75-76, into using it as evidence for the early history of the reign.

ever its effects in establishing private jurisdictions, did not create exemption from the authority of the count,⁴² so that, apart from the question of any devolution of royal rights to the Norman dukes, they would still as counts⁴³ retain control of the great religious establishments. That the clauses of immunity in the charters of the Norman dukes were not intended as a general grant of the duke's judicial powers is shown by the practice, which appears as early as Richard II., of granting, sometimes in the very documents which contain the immunity clause, the ducal *consuetudines* in specified places. Thus Richard II.'s charter to Bernai conveys the duke's *consuetudines* in all the *villae* possessed by the monastery,⁴⁴ and his charter for Jumièges grants his customs, here styled *consuetudines comitatus*, in three places.⁴⁵ The term is, of course, a general one,⁴⁶ comprising tolls, market rights, and a great variety of rights of exploitation other than the profits of justice, but it specifically includes "laws and forfeitures" in Richard's grant of the customs of the Mount to Mont St. Michel,⁴⁷ and its jurisdictional content is more exactly defined in documents to which we shall come in a moment. We may say provisionally that when the duke wished to convey jurisdiction, he made a grant of the ducal *consuetudines*, but we can understand what this means only when we have examined what judicial rights the duke had to grant.

It is commonly asserted by modern writers⁴⁸ that the duke of Normandy was the only feudatory of the French crown who succeeded in retaining for himself the monopoly of *haute justice*

⁴² Brunner, *Deutsche Rechtsgeschichte*, II. 166, 300, 302; Seeliger, *Bedeutung der Grundherrschaft*, p. 80 ff.

⁴³ On the use of count as the early title of the Norman dukes, see Lappen-berg, *Geschichte Englands*, II. 18.

⁴⁴ Le Prévost, *Eure*, I. 285.

⁴⁵ "Ex quibus nostro tempore donavit per nostrum consensum Robertus archiepiscopus frater noster omnes consuetudines que ad comitatum pertinent quas ipse ex nostro iure possidebat. . . . In vado Fulmerii unum alodarium et omnes consuetudines quas iure comitatus in omnibus terris ipsius loci tenebam. . . . Pro quo et nos donavimus omnes consuetudines que ex ipsa terra pertinebant ad nos." Cartulary 22 in archives of the Seine-Inférieure, ff. 7-11; *vidimus* of 1498 and 1529 in same archives. Cf. *Neustria Pia*, p. 323; Le Prévost, *Eure*, II. 571.

⁴⁶ Cf. Flach, *Origines de l'Ancienne France*, I. 203; and notes 55, 68, below.

⁴⁷ *Neustria Pia*, p. 378; *Mémoires des Antiquaires de Normandie*, XII, 110; Round, no. 702. On the other hand the Conqueror's charter for St. Désir mentions "consuetudinibus et forisfactis" (*Gallia Christiana*, XI. instr. 203). Undefined grants of *consuetudines* will be found in *Livre Noir de Bayeux*, no. 1; La Roque, *Histoire de la Maison d'Harcourt* (Paris, 1662), III. 26; *Cartulaire de Notre-Dame de Chartres*, I. 86.

⁴⁸ Brussel, *Usage des Fiefs* (Paris, 1750), I. 253; Luchaire, *Manuel des Institutions Françaises*, pp. 245, 256.

throughout his dominions. Now if we mean by *haute justice* what the lawyers of the thirteenth century meant, jurisdiction by virtue of which the duel could be held and penalty of death or mutilation inflicted, this statement is far from correct, for so-called pleas of the sword are often held by the duke's vassals⁴⁹ and the duel is waged in their courts.⁵⁰ If, on the other hand, we mean that a baron could possess such pleas only by virtue of a ducal grant, and that certain of them were never granted, the statement will probably hold. For the pleas of the sword in the twelfth century we have a list drawn up under Henry II., which can be supplemented by certain chapters of the *Très Ancien Coutumier*.⁵¹ This list, however, expressly says that murder belongs "to the duke alone or to those to whom he or his ancestors have granted it", and it is plain that the same limitation is intended to qualify others of the pleas enumerated. The matter is clearer in the inquest of 1091, which gives a statement, including fewer pleas but professedly incomplete, of the customs and justice exercised by William the Conqueror in the duchy. Assault in the duke's court or on the way to and from it, offences committed in the host or within a week of its setting forth or its return, offences against pilgrims, and violations of the coinage—these place the offender in the duke's mercy and belong exclusively to his jurisdiction.⁵² On the other hand, it appears from the same inquest that there are other offences, such as attacks on houses (*hainfara*), arson, rape, and unwarranted seizure of sureties, jurisdiction over which belongs in some places to the duke and in others to his barons;⁵³ and we find arson, rape, and *hainfara* among the *consuetudines* which Duke William, in the year of his marriage, granted to the abbot of Préaux.⁵⁴ Similar pleas were doubtless included in the *consuetudines de sanguine* granted by the Conqueror to Bec, which possessed jurisdiction over murder and mayhem among the "royal liberties" it

⁴⁹ See *Bibliothèque de l'École des Chartes*, XIII. 108-109; Stapleton, *Magni Rotuli Scaccarii Normanniae* (London, 1840), I. xxxiii; and the texts cited below.

⁵⁰ See, for example, the duels held in the court of the abbot of Jumièges in 1056, Mabillon, *Annales Ordinis S. Benedicti*, IV. 519; and in the court of Roger of Beaumont, *Gallia Christiana*, XI. instr. 202.

⁵¹ Ed. Tardif, cc. 70 (inquest), 15, 16, 35, 53, 58, 59, 69, 70. Cf. Pollock and Maitland, II. 455.

⁵² *English Historical Review*, XXIII. 506, cc. 1-3, 12, 13. The protection of the plow by the duke, as we find it in the *Très Ancien Coutumier*, likewise goes far back into Norman, if not into Scandinavian, history. Dudo, ed. Lair, pp. 171-172; Wilda, *Strafrecht*, p. 245.

⁵³ Cc. 9, 10.

⁵⁴ *English Historical Review*, XXIII. 504.

enjoyed under Henry I.,⁵⁵ and while there were probably local differences, as in Anglo-Saxon England, where Domesday shows curious parallels to the Norman forfeitures,⁵⁶ it is evidently jurisdiction over crimes of this sort which is conferred by the ducal grants of *consuetudines* to monasteries. The great lay lords might also have such customs; indeed the forfeiture of life and limb in baronial courts is presupposed in the inquest of 1091.⁵⁷ The counts of Evreux and Mortain have blood-justice,⁵⁸ the count of Eu has justice in the hundred of St. Pierre-sur-Dive over all forfeitures except the duke's army and coinage;⁵⁹ Robert, count of Meulan, gives the abbot of Préaux, in Salerne, his "forfeitures which according to human law are collected by ancient custom from homicides, thieves and such others as are capitally convicted", and in another district *hainfara*, arson, and *ullac*.⁶⁰

The maintenance of the duke's judicial supremacy is only one phase of the persistent assertion of his ultimate authority over his barons. Coinage was his, and everything relating thereto.⁶¹ Castles and strongholds could be built only by his license and must

⁵⁵ "Predicto monasterio tradidit idem comes Normannie omnes consuetudines de sanguine et theloneo quas habebat circa ipsum monasterium." Before 1066, MS. Lat. 12884, f. 177. The relevant portion of the charter of Henry I. for Bec (Round, *Calendar*, no. 375) is printed (note 5) in an article which will appear in the *English Historical Review* on "The Administration of Normandy under Henry I.", where (no. 1) will also be found a charter establishing the jurisdiction of Fécamp over homicide and arson by grant of Henry's predecessors. Cf. also the Conqueror's grant of "leugam cum sanguine" to the monks of St. Benoît (Prou and Vidier, *Recueil des Chartes de S. Benoît-sur-Loire*, no. 78), and Henry I.'s charter for St. Pierre-sur-Dive, where, however, pleas relating to the army and the coinage are expressly reserved (*Gallia Christiana*, XI. instr. 157). John, abbot of Fécamp (1028-1079), grants a piece of land "retenta publica iustitia in consilio nostro". Bibliothèque Nationale, Collection Moreau, XXI. 25.

⁵⁶ Cf. Pollock and Maitland, II. 454; Maitland, *Domesday Book and Beyond*, pp. 87-88; Vinogradoff, *English Society in the Eleventh Century*, p. 111 ff.

⁵⁷ C. 8.

⁵⁸ Count Richard of Evreux (d. 1067) gives "Deo et sancto Taurino tres consuetudines quas habebat in terra sancti Taurini, videlicet sanguinem, septeragium (sesteragium?), et theloneum". "Little Cartulary" of St. Taurin (archives of the Eure, H. 793), f. 72v, no. 26. For Mortain see *Bibliothèque de l'École des Chartes*, XIII. 108, n.

⁵⁹ *Gallia Christiana*, XI. instr. 156-158; cf. col. 203.

⁶⁰ Cartulary of Préaux (archives of the Eure, H. 711), nos. 68, 347; MS. Lat. n. a. 1929, no. 250; Le Prévost, *Eure*, III. 97 (cf. on p. 96 the grant of Roger of Beaumont). Tithes of the baron's forfeitures are frequently granted to monasteries. E. g., Le Prévost, *Eure*, I. 408; *Gallia Christiana*, XI. instr. 129.

Ullac, also known as *utlach* and *uthlach* (Cartulary of Préaux, no. 55), probably means the harboring of outlaws (*ulages*). Cf. *English Historical Review*, XXIII. 504, n. 16.

⁶¹ *Consuetudines et Iusticie*, c. 13. Cf. *English Historical Review*, XXIII. 505.

be handed over to him on demand, and he could also exact hostages as a guarantee of a baron's loyalty.⁶² Private war and the blood feud were not, it is true, entirely abolished in the Conqueror's time, but they were reduced within comparatively narrow limits;⁶³ and while the extermination of disorder and violence was doubtless not so complete as his panegyrists would have us believe,⁶⁴ it is plain that much was accomplished in this direction.

An authority such as the Conqueror wielded in church⁶⁵ and state required a considerable income for its maintenance, and while there are no fiscal records for Normandy earlier than 1180, it is possible to trace back to William's time most of the sources of revenue which appear in detail in the exchequer rolls a century later.⁶⁶ The duke had his domains and forests, scattered throughout the duchy and sometimes of considerable extent, which might yield a *vectigal* as well as a great variety of payments in kind. He had his mills, such as the eight "fiscal mills" on the Eau de Robec at Rouen, his salt-pans, his fishing-rights at certain points on the rivers and on the coast, and his monopoly of the taking of whales and other "great fish". Wreck and treasure-trove were his, as well as the profits of coinage. He had large possessions in certain towns—he could sell half of Coutances to its bishop⁶⁷—in addition to tolls, rights over markets and fairs, and other urban *consuetudines*.⁶⁸

⁶² *Consuetudines et Iusticie*, cc. 4, 5. Cf. Ordericus, III. 262, 263.

⁶³ *English Historical Review*, XXIII. 503; cf. council of Lisieux (1064), c. 7, *Journal des Savants*, 1901, p. 517. As early as the reign of Robert the Devil we see the duke's messenger separating combatants and putting them under oath to abide by the decision of his court. *Vita Herluini*, in Mabillon, *Acta Sanctorum Ordinis S. Benedicti*, VI. 2, 348.

⁶⁴ William of Poitiers, ed. Duchesne, p. 193; Wace, ed. Andresen, lines 5348–5352. Their repression of disorder and their rigorous administration of justice are the constant refrain of Dudo's eulogies of the first three Norman dukes. Ed. Lair, pp. 171, 183, 196, 200, 201, 205, 245, 248, 255, 259, 261–264, 266, 268, 269, 272, 280, 290–293.

⁶⁵ Owing to the limits of space set for this article, it has been found necessary to omit the portion relating to the church courts and the Conqueror's ecclesiastical supremacy. Some phases of this subject are discussed by Böhmer, *Kirche und Staat in England und in der Normandie* (Leipzig, 1899).

⁶⁶ See the classical study of Delisle, *Des Revenus Publics en Normandie au Douzième Siècle*, in the *Bibliothèque de l'École des Chartes*, X. 173–210, 257–289, XI. 400–451, XIII. 97–135.

⁶⁷ *Gallia Christiana*, XI. instr. 219.

⁶⁸ E. g., in an early charter for Troarn, "in Falesia totam terram Wesman et consuetudines eius ad regem pertinentes". MS. Lat. 10086, f. 3v. The following, relating to Bayeux, is more specific: "Et ille bene scit domos infra civitatem et terram extra civitatem positam semper fuisse quietas ab omni consuetudine Normannorum principis, scilicet theloneo, gildo, multa molendinorum, et custodia vigiliarum, et dominus predictæ terre si faceret adducere vinum suum de Argencis esset quietus suum carragium apud Cadomum et apud Baiocas". 1079–1083, MS. Lat. n. a. 1243, f. 81.

Bernagium for his hunting dogs was a burden on the land,⁶⁹ as was also an exaction called *gravaria*.⁷⁰ The fines and forfeitures of justice and the receipts from feudal dues were naturally important.

How the revenues of the Norman dukes were collected and administered is a question of great interest, particularly to the student of English institutions. Since the days of the *Dialogue on the Exchequer*⁷¹ there have not been wanting those who have maintained that the English exchequer was organized on the model of an earlier Norman institution; and while recent investigations have traced portions of the exchequer system back to Anglo-Saxon times⁷² and have suggested that an elaborate fiscal system is more likely to have grown out of the collection of a heavy tax like Danegeld than out of the more ordinary and miscellaneous set of revenues which we have just enumerated,⁷³ the possibility of Norman influence upon the English exchequer has by no means been eliminated from the discussion. The Norman evidence, it is true, is of the most meagre sort,⁷⁴ the absence of anything like the Domesday survey being the greatest gap, but the argument from silence is especially dangerous where the destruction of records has been so great as in Normandy, and it is well to bear in mind that, save for the accident which has preserved a single Pipe Roll of Henry I., the existence of the English exchequer is barely known before Henry II. A ducal treasury appears in Normandy as early as Richard II., who gives a hundred pounds from his *camera* to redeem lands of St. Benigne of Dijon,⁷⁵

⁶⁹ *English Historical Review*, XXIII. 504; Round, *Calendar*, no. 2; *Monasticon*, VII. 1074; *Liber Albus* of Le Mans, no. 1; charter of William I. for St. Étienne, archives of the Calvados, H. 1830, 2-2 ("quietum ab omni gravaria et bernagio"); charter of William Rufus for Bec, archives of the Eure, H. 91, f. 39v.

⁷⁰ DuCange, *Glossarium*, under "gravaria"; Stapleton, *Magni Rotuli*, I. lxxxvii, xcvi, cxviii, clxxxi; Farcy, *Abbayes de l'Évêché de Bayeux*, pp. 81, 82 (before 1066); Round, *Calendar*, nos. 117, 1175.

⁷¹ I. iv, ed. Hughes, Crump, and Johnson, p. 66.

⁷² See especially Round, *Commune of London*, p. 62 ff.; and for a summary of the question, Petit-Dutaillis's translation of Stubbs, I. 804-809.

⁷³ Vinogradoff, *English Society in the Eleventh Century*, p. 140.

⁷⁴ The name exchequer appears in Normandy in a document of ca. 1130; Round, *English Historical Review*, XIV. 426. An exchequer roll of 1136 was cited in the eighteenth century, *Mémoires des Antiquaires de Normandie*, XVI. xxx.

⁷⁵ "Tactus pater meus divina inspiratione dedit de camera sua predicto Attoni centum libras nummorum." Charter of Robert I., MS. 1656 of the Bibliothèque S. Geneviève at Paris, p. 46; printed, inaccurately, in Deville, *Analyse d'un Ancien Cartulaire de l'Abbaye de S. Étienne de Caen* (Evreux, 1905), p. 34. "Robertus de camera" is mentioned in a charter anterior to 1067, Round, *Calendar*, no. 87; Pommeraye, *Histoire de S. Amand*, p. 81.

and grants to Fécamp permanently the tithe of his *camera*.⁷⁶ The latter grant, which has come down in the original, is particularly interesting, for the duke goes on to define the *camera* as comprising everything "given to him by the service of anything", whether lands purchased or fines or gifts or any sort of transaction—in other words, any extraordinary or occasional addition to his treasure.⁷⁷ The profits of coinage are separately reckoned, and the *fiscalis census* and "what are anciently called customs" are expressly excluded. It would be rash to attempt to define too closely the content of the *census* and the customs, but the *census* must at least have covered the returns from the demesne and forests, and the customs would naturally include the profits of tolls and markets and justice—altogether much the sort of thing which was later comprised within the farm of the *vicomté* or *prévôté*. The duke plainly knows the difference between his ordinary and his extraordinary sources of income. So a century and a half later we find that returns from the mint and receipts of the *camera* are separately accounted for; the exchequer rolls record only the revenues collected by the local officers.

Can we discover in the eleventh century any indication of system in the collection of these fixed sources of revenue? We may dismiss at the outset, as the report of a later age, Wace's picture of Richard II. shut up in a tower with his *vicomtes* and *prévôts* and going over their accounts;⁷⁸ but it is nevertheless possible, by working back from documents of the twelfth century, to reach certain tentative conclusions with respect to the fiscal system of the Conqueror's reign. In the first place it is clear that the farm of the *vicomté* existed under William I., for we know from a charter of Henry I. that certain fixed items in the later rolls, to wit twelve pounds in the farm and twenty shillings in the toll of Argentan and sixty shillings and tenpence in the toll of Exmes, had been settled as alms to the canons of Séez by grant of his father and

⁷⁶ "Concedo etiam decimas monete nostrae ex integro et decimas nostre camere, videlicet de omnibus quaecumque michi alicuius rei servitio dabuntur, videlicet aut emptarum terrarum aut emendarum aut cuiuslibetcumque negotii sive dono muneris gratis dati excepto fiscali censu et exceptis his quae costumas antiquitus dicunt. Do et decimas telonei de burgo qui dicitur Cadumus." Charter of 1027 for Fécamp, Musée de la Bénédictine, no. 2 *ter*; *Neustria Pia*, p. 217. The grant of the toll of Caen shows that tolls are not included in the receipts of the *camera*.

⁷⁷ So when Nigel grants Céaux to Mont St. Michel a payment is made to William I.'s *camera*: "Pro cuius rei concessu dedit prefato Guillelmo centum et 1^{ta} libras quas accepit Radulfus camerarius". MS. Avranches 210, f. 107.

⁷⁸ Ed. Andresen, lines 2009–2012.

mother.⁷⁹ Permanent charges of this sort, either in the form of tithes or of definite amounts, are frequently recorded against the farms in the Norman rolls of the twelfth century, as in the English pipe rolls of the same period, but whereas in the English rolls such fixed alms are of recent creation, in Normandy they can often be traced back to the eleventh century. Thus St. Wandrille offered charters of Richard II. as its title to the tithes of the toll of Falaise, Exmes, Argentan,⁸⁰ and the Hiesmois, of the *vicomtés* and tolls of Dieppe and Arques, and of the fair of Caen.⁸¹ By grant of the same prince Fécamp received the tithe of the toll of Caen,⁸² and Jumièges the tithes of the *prévôtés* of Bayeux and the Bessin.⁸³ The abbey of Cerisy received its tithes, as granted by Robert the Devil and confirmed by the Conqueror in 1042, from the *vicomtés* of the Cotentin, Coutances and Gavray, and from a number of the ducal forests.⁸⁴ By authority of William I. the nuns of St. Amand had the tithe of Barfleur, of St. James and of the *modiatio* of Rouen;⁸⁵ those of La Trinité had two-thirds of the tithe of the *prévôté* of Caen; the bishop of Coutances had the tithe of the toll of Cherbourg, and the canons of Cherbourg the tithe of the ducal mills in Guernsey.⁸⁶ Specific grants make their appearance in the same reign;

⁷⁹ "Preterea duodecim libras in firma nostra de Argentomo et viginti et unum solidos in teloneo eiusdem ville et sexaginta solidos et decem denarios de teloneo nostro de Oximis, que dederunt pater meus et mater mea ecclesie Sagiensi ad victum canonicorum duorum, quod antiquitus in elemosina statutum fuerat." MS. Alençon 177, f. 98; MS. Lat. 11058, f. 8. I have printed further extracts from this charter in the paper on "The Administration of Normandy under Henry I." in the *English Historical Review*, above referred to. These items are duly charged in the roll of 1180. Stapleton, *Magni Rotuli*, I. lxxxviii, xcvi, cxxxii, 39, 50, 103.

⁸⁰ In the later rolls this has become a fixed rent of 15 pounds. *Mémoires des Antiquaires de Normandie*, XVI. xii.

⁸¹ See the charges in Stapleton, I. xcvi, ci, cviii, cxxiii, cxxxii, 39, 50, 57, 68, 90, 103. The originals, or quasi-originals, of these charters for St. Wandrille are preserved in MS. Lat. 16738 and in the archives of the Seine-Inférieure; some of them are clearly not genuine in their present form. M. Ferdinand Lot is preparing a study of them.

⁸² See above, note 76; Stapleton, I. xxiv, c, 56. St. Taurin, later a dependency of Fécamp, received from Richard I. the tithe of the *vicomté* of Evreux, but this passed out of the duke's hands and does not appear in the rolls. "Little Cartulary" of St. Taurin (archives of the Eure, H. 793), ff. 57, 115v; *Gallia Christiana*, XI. instr. 138; Martène and Durand, *Thesaurus Anecdotorum*, I. 154. The tithe of Avranches, granted to the cathedral by Robert I. (Pigeon, *Le Diocèse d'Avranches*, II. 667), does not appear in the rolls, for similar reasons.

⁸³ *Neustria Pia*, p. 323; *Monasticon*, VII. 1087; Stapleton, I. 7, 40.

⁸⁴ *Neustria Pia*, p. 432; *Monasticon*, VII. 1073; Farcy, *Abbayes de l'Évêché de Bayeux*, p. 78.

⁸⁵ Before 1055, *Monasticon*, VII. 1101; Stapleton, I. 40.

⁸⁶ Stapleton, I. c, 56; lxxxiii, 30; lxxvii, 27.

besides the above-mentioned grant to Séez William gives, before 1066, to the nuns of Montivilliers a hundred shillings in the *prévôté* of Caen.⁸⁷ In none of these cases does the original grant use the word farm, although the duke's revenues at Barfleur and in the *vicomtés* of the Cotentin, Coutances and Gavray are expressly stated to be in money, but it is altogether likely in view of the charter to Séez that the *vicomtés* and *prévôtés* were farmed in the Conqueror's time. In any event, in order to make such grants, the duke must have been in the habit of dealing with these areas as fiscal wholes and not as mere aggregates of scattered sources of income; the unit was the *vicomté* or *prévôté*, and not the individual domain. One other point of interest deserves to be mentioned in connection with these entries of fixed alms, the fact, namely, that wherever the matter can be tested, the various fixed charges are entered under each account in chronological order.⁸⁸ This cannot be mere chance, nor is it likely that a later exchequer official would have sufficient historical interest to rearrange them chronologically; it is much more probable that when each grant was made it was entered, probably on a central record similar to the later exactory roll. If this is the correct explanation, it follows that where the list begins with the grants of Richard II. and continues with those of William,⁸⁹ the entries were made as early as the Conqueror's time. There would be nothing surprising in the existence of a record of amounts due and allowances to be made; such a roll is the natural part of the system of farms and fixed alms which we have found under the Conqueror, if not of the state of affairs existing under Richard II.⁹⁰

Whatever weight may be attached to such inferences as these, it seems fairly clear that in the matter of fiscal organization Normandy was in advance of neighboring lands such as the county of

⁸⁷ *Gallia Christiana*, XI. instr. 328; Stapleton, I. c. 56. The Conqueror also assigned against this *prévôté* twelve prebends for his hospital at Caen, and similar charges were made against the *prévôté* of Bayeux. Stapleton, I. lxi, ci; cf. Henry II.'s charter for the lepers of Bayeux, MS. Rouen 1235, f. 5.

The duke's officers also pay tithes and fixed charges granted by his barons on tolls which have subsequently come into his hands. *Bibliothèque de l'École des Chartes*, X. 178, 196; Stapleton, I. lxiv, cxviii, 8, 14, 17, 82. Cf. *Dialogus de Scaccario*, II. 10.

⁸⁸ Stapleton, I. 7, 30, 38, 39, 50, 56, 68, 70, 90, 97, 103, 111; *Mémoires des Antiquaires de Normandie*, XVI. 109.

⁸⁹ E. g., Stapleton, I. 39, 56.

⁹⁰ Compare the early development of a fiscal system in Flanders. Pirenne, *Histoire de Belgique*, I. 109.

Anjou or the royal domain.⁹¹ The Capetian charters of the eleventh century, for example, indicate fairly primitive economic conditions. The kings are liberal in granting lands and exemptions and rights of exploitation, but fixed grants of money are rare and small in amount, and are nearly always charged against an individual domain or a specific source of revenue rather than, as in Normandy, against the receipts from a considerable district.⁹² Whereas the Conqueror's grants give evidence of a considerable money income, the *Natural-wirtschaft* of the Capetian kings is shown by the prevalence, well into the twelfth century, of fixed charges which are paid in kind—the tithe of the royal cellars and granaries at Auvers and Poissy,⁹³ fourteen *muids* of grain in the mills of Bourges, or twenty *muids* of wine from the vineyards of Vorges and Joui.⁹⁴ It is thoroughly characteristic of the condition of eleventh-century Normandy that the dukes should be sparing in conferring extensive franchises and rights of exploitation, while they were generous in permanent grants of money from the income which their own officers collected.

In local government the distinctive feature of the Norman system is the presence of a set of officers who are public officials, rather than mere domanial agents, and are in charge of administrative districts of considerable extent. As has been anticipated in the account of Norman finance, the chief local officer of the eleventh century was the *vicomte* and the principal local division the *vicomté*.

⁹¹ A comparative study of fiscal arrangements in the eleventh century is much needed. The charters of the Angevin counts are listed by Halphen, *Le Comté d'Anjou au XI^e Siècle* (Paris, 1906); those of Robert I. and Henry I. by Pfister, *Études sur le Règne de Robert le Pieux* (Paris, 1885), and Soehnée, *Catalogue des Actes d'Henri I^{er}* (Paris, 1907). The charters of Philip I. are now accessible in the admirable edition of Prou, *Recueil des Actes de Philippe I^{er}* (Paris, 1908).

⁹² The nearest parallels to the Norman grants are the gift by Robert I. to the church of Étampes of ten *sous* of "census de fisco regali Stampensi" (*Historiens de France*, XI. 579; Soehnée, no. 73), and the grant by Henry I. to St. Magloire of the tithe of the port of Montreuil, where however the tithe of the money had already been granted to another monastery and the tithe of beer to a third. Tardif, *Monuments Historiques*, no. 262; Soehnée, no. 33.

⁹³ Prou, *Philippe I.*, no. 63; Luchaire, *Louis VI.* (Paris, 1890), no. 350.

⁹⁴ Luchaire, *Louis VI.*, nos. 224, 621; cf. nos. 557, 628, 630. The Norman grants of wine from the *modiatio* of Rouen are different, being from the proceeds of a toll (levied on every hundred *modii*) instead of from an ordinary storehouse or vineyard. See particularly the Conqueror's charter of (before 1055), giving St. Amand "decimam mee modiationis de Rothomago" (*vidimus* in archives of the Seine-Inférieure); and cf. *Bibliothèque de l'École des Chartes*, XI. 424; Beuarepaire, *Le Vicomté de l'Eau de Rouen* (Rouen, 1856), p. 19.

The older Frankish areas, *pagus*,⁹⁵ *centena*⁹⁶ and *vicaria*,⁹⁷ have not wholly disappeared, and in some cases the *vicaria* may have become the *vicecomitatus*;⁹⁸ but the *vicomte* is a far more important personage than the *voyer* of neighboring lands,⁹⁹ and the territory which he rules is considerably larger. Whether the Norman *vicecomes* contributed anything more than his name to the Anglo-Norman sheriff, is a question to which no satisfactory answer can be given until we know more of the functions of both officials before the Conquest.¹⁰⁰ The *vicomte* is a military leader, commanding the duke's troops and guarding his castles;¹⁰¹ he is charged with the maintenance of order, and may proclaim the duke's ban;¹⁰² he collects the ducal revenues for his district, including the customary dues from the demesne;¹⁰³ and he administers local justice in the duke's name,¹⁰⁴ assisting the bishop in the enforcement of the Truce of God¹⁰⁵ and doubtless exercising the jurisdiction comprised in the *consuetudines vicecomitatus*.¹⁰⁶ He is a frequent attendant at the duke's *curia*, witnessing charters and taking part in the decision of cases,¹⁰⁷ and he may be specially commissioned to hold a sworn inquest¹⁰⁸ or execute the decision of the court.¹⁰⁹ The office might

⁹⁵ See particularly Le Prévost, "Anciennes Divisions Territoriales de la Normandie", in *Mémoires des Antiquaires de Normandie*, XI. 1-59, reprinted in his *Eure*, III. 485-548.

⁹⁶ *Mémoires des Antiquaires de Normandie*, XXX. 668; *Gallia Christiana*, XI. instr. 158.

⁹⁷ Stapleton, I. lxxxi, "Extra vieriam Belismi", charter of Robert of Bellême, archives of the Orne, H. 2150.

⁹⁸ Mayer, *Deutsche und Französische Verfassungsgeschichte* (Leipzig, 1899), I. 357. Their equivalence is implied in Ordericus, II. 470; and in the cartulary of St. Wandrille (in the archives of the Seine-Inférieure), T. iii. 34, where a *vicomte* pledges "vicecomitatum et viariam suam" and promises to give up "supradictam viariam" if not redeemed (1117).

⁹⁹ For Anjou see Halphen, *Moyen Age*, XV. 297-325.

¹⁰⁰ Cf. Stubbs, *Constitutional History*, I. 292, note.

¹⁰¹ Delisle, *S. Sauveur-le-Vicomte*, pp. 2-3, and pièce 34, where Néel the elder holds the castle of Le Homme "quia vicecomes erat eiusdem patrie".

¹⁰² *Gallia Christiana*, XI. 34.

¹⁰³ Delisle, *S. Sauveur*, no. 35; Round, *Calendar*, nos. 1169, 1170.

¹⁰⁴ See the account in Ordericus of the *vicomte* of Orbec (III. 371) and particularly the cases at Neaufle "in curia Roberti Normannorum comitis castrum coram Guillelmo Crispino illius terre vicecomite" (Le Prévost, *Eure*, II. 506) and "in curia regis Anglorum apud castrum Niefam" (Bibliothèque Nationale, MS. Baluze, 77, f. 61). William Crispin is also mentioned as *vicomte* of the Vexin in Migne, *Patrologia*, CL. 737; and in MS. Tours 1381, f. 25v.

¹⁰⁵ Council of Lillebonne, c. 1.

¹⁰⁶ See above, notes 45 and 54.

¹⁰⁷ See below, note 149.

¹⁰⁸ *Gallia Christiana*, XI. instr. 65.

¹⁰⁹ MS. Rouen 1193, ff. 31v, 54v. See below, note 141.

become hereditary, as in the Bessin, and the Cotentin,¹¹⁰ but the annual farm was still due and the duke's control seems to have been maintained.¹¹¹ The evidence is not sufficient to enable us to define the relations between the *vicecomitatus* and the *prepositura* in the eleventh century, but it seems probable that they were "from the first convertible names for the same description of jurisdiction, however qualified in extent",¹¹² in somewhat the same way as the offices of *prévôt* and *voyer* in contemporary Anjou.¹¹³ The scattered *prepositi* who appear in the charters¹¹⁴ are plainly not men of importance, and, as in the case of the *thelonearii*¹¹⁵ and *gravarii*,¹¹⁶ the texts do not always make it possible to distinguish ducal from baronial agents. Beyond the names of various foresters,¹¹⁷ we get no light on the forest administration, but it is evident that the ducal forests are already extensive and important, and are subject to the special jurisdiction which goes back to the Frankish forest ban¹¹⁸ and will develop into the forest code of the Anglo-Norman kings. We hear of pleas of the forest,¹¹⁹ though we do not know by whom they were held; such assaults as are lawful elsewhere are forbidden in the forests,¹²⁰ and for offences against the forest law even priests cannot claim their exemption.¹²¹

The organization of the ducal household is a subject concerning which only provisional statements can be made until the whole body of charters has been collected and the witnesses carefully

¹¹⁰ Stapleton, *Magni Rotuli*, I. lvii; Lambert, "Les Anciens Vicomtes de Bayeux", *Mémoires de la Société d'Agriculture de Bayeux*, VIII. 233 ff.; Delisle, *Histoire de S. Sauveur-le-Vicomte*, ch. 1.

¹¹¹ Ordericus implies the removability of the local officials when he says of the Conqueror, in 1067: "Optimosque iudices et rectores per provincias Neustrie constituit". II. 177.

¹¹² Stapleton, I. lxi; cf. *Bibliothèque de l'École des Chartes*, XI. 402.

¹¹³ Where the *prévôt* is the more important of the two but exercises the same functions as the *voyer*. *Moyen Age*, XV. 297 ff.

¹¹⁴ Le Prévost, *Eure*, I. 141, 460, II. 393; Round, *Calendar*, no. 713; *Cartulaire de la Trinité de Rouen*, nos. 24, 27, 42, 44, 51; MS. Lat. 5443, p. 51.

¹¹⁵ *Gallia Christiana*, XI. instr. 66; Pommeraye, *Histoire de S. Amand*, p. 79; *Cartulaire de la Trinité*, no. 16.

¹¹⁶ *Cartulaire de la Trinité*, nos. 16, 73, 80; Round, no. 1175; *Revue Catholique de Normandie*, VII. 432.

¹¹⁷ Round, nos. 1169, 1175; *Cartulaire de la Trinité*, nos. 7, 28, 47, 49, 51, 64, 79; Le Prévost, *Eure*, I. 285, 286, 562.

¹¹⁸ Waitz, *Deutsche Verfassungsgeschichte*, II. 2, 316, IV. 128 ff.; Liebermann, *Ueber Pseudo-Cnuts Constitutiones de Foresta*, pp. 17, 19; Thimme, in *Archiv für Urkundenforschung* (1908), II. 114 ff.

¹¹⁹ Charters of Robert and William for Cerisy, *Neustria Pia*, pp. 431-432. The count of Mortain also had forest courts. *Bibliothèque de l'École des Chartes*, XI. 444.

¹²⁰ *Consuetudines et Iusticie*, c. 7.

¹²¹ Council of Lillebonne, c. 8.

sifted. Certain great officers are clearly distinguishable, particularly after the Conqueror's accession, but further study is needed to determine their number and relative importance and the succession of those who held them. Ralph of Tancarville the chamberlain, Gerold the seneschal, and Hugh of Ivry the butler are familiar figures at William's court,¹²² and others appear with the same titles but not always with equal rank. The office of constable, though found as early as Robert I., is apparently of less importance. The clerical element in the household naturally centred in the duke's chapel, which was the point of departure for the development of the secretarial and fiscal sides of the central administration; but while we have the names of several of William's early chaplains,¹²³ many of whom became bishops in Normandy or in England, very little is known of their secular duties. Certain churches seem to have been constituted chapelries for the chaplains' support,¹²⁴ so that the office had some degree of continuity, and the ducal clerks of these days show something of the skill in acquiring desirable houses and lands which is characteristic of their successors in the twelfth century.¹²⁵ So far as there was an organized chancery—and this is a question which must, at least for the present, remain open—it was doubtless closely connected with the chapel; but the absence,

¹²² The three together sign charters in *Cartulaire de la Trinité de Rouen*, no. 39 (1066); Mabillon, *Annales Ordinis S. Benedicti*, V. 593 (1070). The growing importance of the household officers as compared with the *vicomtes* is evident by a comparison of the witnesses to William's charters with the witnesses of his predecessors'. The statements concerning the ducal household in Harcourt, *His Grace the Steward* (London, 1907), pp. 6–18, need a good deal of correction.

¹²³ Three witness an early charter in Round, *Calendar*, no. 1165.

¹²⁴ "Temporibus Ricardi comitis Normannie et Rotberti eius filii et Willelmi filii predicti Rotberti fuit quidam eorum capellanus Baiocis Ernaldus nomine, potens in prediis et domibus infra civitatem et extra civitatem que emerat suo auro atque suo argento. Quo mortuo tempore Willelmi Normannorum ducis Stephanus nepos predicti Ernaldi iure hereditario successit in hereditatem sui avunculi dono Willelmi Normannorum ducis." After Stephen's death and a suit in the king's court the king "accepit in suum dominium possessionem Stephani et dedit eam regine et regina dedit michi concessu regis domos et duodecim acras terre que iam predixi et ortos et omnia que habuerat Stephanus de suo alodio, nam alias res eiusdem Stephani que pertinebant ad ecclesiam sancti Iohannis que erat capella regis dederat iam rex Thome suo clerico nondum archiepiscopo". Notice of Rainaldus the chaplain, MS. Lat. n. a. 1243, f. 80; MS. Fr. 4899, p. 292. This *capellaria* was later held by Samson (*Livre Noir de Bayeux*, no. 4), probably the royal chaplain of that name who became bishop of Worcester in 1096. Both Samson and his brother Thomas were canons and treasurers of Bayeux.

¹²⁵ Cf. Round, "Bernard the King's Scribe", *English Historical Review*, XIV. 417–430.

except for two charters of Richard II.,¹²⁶ of any mention of a chancellor before 1066 does not preclude the existence of a chancery under the Conqueror. Chancery and chapel were not completely differentiated in Frankish days,¹²⁷ and both at the court of Philip I. and at William's English court the chancellor sometimes attested simply as chaplain.¹²⁸ It should be remembered that the Conqueror's first chancellor in England, Herfast, had long been his chaplain in Normandy,¹²⁹ where he is still called chaplain after his entrance upon the English chancellorship.¹³⁰

Of the *curia* in the wider sense before 1066 it is likewise impossible to speak with the definiteness which it deserves as an antecedent of the English *curia regis*. A comparison of the names of the witnesses to William's charters does not show any great degree of fixity in his *entourage*. The bishops, when present, sign after the members of the ducal family. Then comes a small group of counts and men of similar rank—the counts of Evreux and Mortain, Roger of Beaumont, Roger of Montgomery, William Fitz Osbern—followed by household officers, *vicomtes*, and others. These are the elements which constitute the *curia*, but their function is attestation rather than assent, and, except for the few cases where the charter is expressly declared to be issued in such a gathering,¹³¹ it is impossible

¹²⁶ "Hugo cancellarius scripsit et subscripsit." Charter of 1027 for Fécamp, Musée de la Bénédictine, no. 2 *ter*; *Neustria Pia*, p. 215. "Odo cancellarius scripsit et subscripsit." Charter for Dudo of St. Quentin, *Gallia Christiana*, XI. instr. 284. The charter of 1011 for St. Ouen (Pommeraye, *Histoire de S. Ouen*, p. 422) which contains the words "Dudo capellanus composui et scripsi" is an evident forgery, but an authentic charter of 1006 for Fécamp (Musée, no. 1) has "Per Widonem notarium meo rogatu scriptum". "Ego frater Robertus scripsi et subscripsi" appears in a charter for St. Wandrille subscribed by the Conqueror before 1066 (original in MS. Lat. 16738, no. 4); this was probably the Robertus scriptor of a charter for St. Amand (Pommeraye, *Histoire de S. Amand*, p. 78) and the Rodbertus clericus of an early charter for Jumièges (Delisle, *S. Sauveur-le-Vicomte*, no. 16).

¹²⁷ On the whole subject of the Frankish chapel see now Lüders, "Capella", *Archiv für Urkundenforschung* (1908), II. 1-100.

¹²⁸ For France see Prou, *Actes de Philippe I.*, p. lv; and for England Eyton's note (British Museum, Add. MS. 31943, f. 27v) calling attention to the subscription of Herfast noted below and to that of Maurice as chaplain in 1083 (*Monasticon*, I. 238), two years after he had been made chancellor. Cf. the destructive criticism respecting the Anglo-Saxon chancery by Stevenson, *English Historical Review*, XI. 732 (p. 733, n. 5, throws doubt also on the Norman chancery); and by Hall, *Studies in English Official Historical Documents*, p. 163 ff.

¹²⁹ Round, *Calendar*, no. 1165; William of Malmesbury, *Gesta Pontificum*, p. 150.

¹³⁰ Round, no. 77, dated 1069, whereas he is chancellor in 1068 (*Monasticon*, VIII. 1324).

¹³¹ Hariulf, ed. Lot, p. 185; Martène and Durand, *Thesaurus*, I. 252; Orde-ricus, II. 40.

to say when the *primates* or *proceres* have met as an assembly. Beyond the old custom of holding an assembly at Fécamp at Easter-tide,¹³² our knowledge of the duke's itinerary is too fragmentary to show any such regularity in the court's meetings as we find in England after the Conquest. The *curia* was brought together for purposes of counsel on matters which ranged from a transfer of relics¹³³ to the invasion of England,¹³⁴ and for judicial business. As a judicial body the charters reveal its activity chiefly in cases concerning a monastery's title to land¹³⁵—for the duke's protection naturally carried with it access to his court—but it plainly has wider functions growing out of the judicial supremacy of the duke. It may try barons for high crimes.¹³⁶ Disputes respecting the limits of ecclesiastical and baronial jurisdiction must be brought before it,¹³⁷ and it is the obvious place for the settlement of other difficulties between the greater tenants, so that it may even be agreed in advance that when a case reaches a certain stage it shall be respite until it can come before the duke.¹³⁸ The *curia* is a place of record for agreements,¹³⁹ and may itself order a sworn record to be made and attested.¹⁴⁰ It may send officers to partition land.¹⁴¹ Evidence

¹³² William of Jumièges, ed. Duchesne, p. 317; Lot, *Fidèles et Vassaux*, p. 262. We find an Easter court at Fécamp in 1032 (Ordericus, III. 223); 1028 or 1034 (Collection Moreau, XXI. 9); ca. 1056 (Round, no. 1109); 1066 (Le Prévost, *Eure*, I. 149); 1067 (Duchesne, *Scriptores*, p. 211); 1075 (Ordericus, II. 303); 1083 (MS. Rouen 1193, f. 30v). No place is mentioned in *Cartulaire de la Trinité de Rouen*, nos. 28, 82, both issued at Easter. The great privileges of Richard II. for the Norman monasteries were granted at a *curia* held at Fécamp in August (*Neustria Pia*, pp. 215, 398; Le Prévost, *Eure*, I. 285), and Robert I. held a *curia* there in January, 1035 (*Gallia Christiana*, XI. instr. 327).

¹³³ *Acta Sanctorum*, February, I. 193 (Richard I.).

¹³⁴ Freeman, *Norman Conquest*, III. 290 ff.

¹³⁵ "Si per illam calumniam damnum aliquod ipsi monachi habuerint, duas reclamaciones in mea corte vel curia faciant." Robert I. for Fécamp, Collection Moreau, XXI. 9. See Delisle, *S. Sauveur-le-Vicomte*, nos. 35, 36, 42; Hariulf, ed. Lot, p. 224; *Cartulaire de la Trinité*, no. 82; Ordericus, II. 310; Deville, *Analyse d'un Cartulaire de S. Étienne de Caen*, p. 20; Round, *Calendar*, nos. 78, 116, 165, 711, 712, 1114, 1170-1172, 1190, 1212.

¹³⁶ Ordericus, II. 433. Cf. the case of the abbot of S. Evroul, *ibid.*, II. 81.

¹³⁷ Council of Lillebonne, end.

¹³⁸ "Dum venit in Monte Sancti Michaelis est in respectu donec coram rege." Agreement between the abbot of Mont St. Michel and William Paine, 1070-1081, *English Historical Review*, XXII. 647. The passage is somewhat obscure (cf. Round, *Calendar*, no. 714), but the meaning of *coram rege* is plain.

¹³⁹ Round, nos. 713, 1171, and the charter cited in the preceding note. Cf. the following, from a charter of William as duke: "Me petierunt canonici precepique ut coram Geraldo dapifero meo firmaretur eorum conventio, quod factum est". Deville, *Essai Historique sur S. Georges de Bocherville* (Rouen, 1827), p. 71.

¹⁴⁰ *Gallia Christiana*, XI. instr. 65.

¹⁴¹ Le Prévost, *Eure*, III. 184. MS. Rouen 1193, ff. 31v, 54v: "Partes . . . quas adquisivit Robertus archiepiscopus iudicio Ricardi comitis et principum

is secured by oath,¹⁴² ordeal,¹⁴³ and the wager of battle,¹⁴⁴ and it is altogether probable that the sworn inquest was employed.¹⁴⁵ Where the account is at all explicit, we usually find certain members rendering the decision of the court, sometimes merely as *Urteil-finder* after the case has been heard before the whole *curia*,¹⁴⁶ sometimes as a separate body before which the proceedings are conducted.¹⁴⁷ This does not necessarily involve any stability of organization or specialization of function, but there are indications that more of a beginning had been made in this direction in Normandy than, for example, in the neighboring county of Anjou.¹⁴⁸ Among the men who act as judges we regularly find one or more bishops and a *vicomte*,¹⁴⁹ members of the two classes which had most occasion to become acquainted with the law, and while we do not yet hear of a body of justices and a chief justiciar, it is not impossible that something of the sort may have existed. At the very beginning of William's reign the bishop of Bayeux makes complaint before the archbishop of Rouen, Count Odo of Brittany, Neel the vicomte, *alii-que seniores justiciam regni obtinentes*,¹⁵⁰ and in three other cases the archbishop and Roger of Beaumont appear among the judges.¹⁵¹ Bishop Geoffrey of Coutances, described by his biographer as immersed in the business of the king and the *curia*,¹⁵² is found in three of the small number of charters where the names of the judges

eius in appendiciis Doverent ad quarum divisionem et saisonem misit Ricardus comes Goscelinum filium Heddonis et Ricardum vicecomitem filium Tescelini et Radulfum filium episcopi et Osbertum de Augis".

¹⁴² *Livre Noir de Bayeux*, no. 21.

¹⁴³ Round, no. 1172; Ordericus, II. 433; *Mémoires de la Société d'Agriculture de Bayeux* (1845), III. 125.

¹⁴⁴ *Neustria Pia*, p. 168 (Round, no. 165).

¹⁴⁵ Brunner, *Schwurgerichte*, p. 270; Pollock and Maitland, second edition, I. 143. The existence of the sworn inquest has mainly to be inferred from its appearance in England shortly after the Conquest and in Normandy in the twelfth century. Cf. Haskins, "The Early Norman Jury", *AMERICAN HISTORICAL REVIEW*, VIII. 613 ff.

¹⁴⁶ Round, no. 1190.

¹⁴⁷ Delisle, *S. Sauveur-le-Vicomte*, nos. 36, 42.

¹⁴⁸ For Anjou see Halphen, in *Revue Historique*, LXXVII. 282.

¹⁴⁹ Delisle, *S. Sauveur-le-Vicomte*, nos. 13, 35, 36, 42; Round, no. 1190. The bishops are prominent in Round, no. 78; in no. 1114 the bishops and abbots are the judges; in no. 1116, two abbots and five laymen. The *curiae* in which the vicomte appears may in some cases have been local. Cf. note 104.

¹⁵⁰ *Livre Noir de Bayeux*, no. 21; Delisle, *S. Sauveur-le-Vicomte*, no. 13. Delisle, p. 3, considers these men to have been regents. Stapleton, I. xxiv, note o, calls them justiciars.

¹⁵¹ Round, nos. 78, 1190; MS. Lat. n. a. 1243, f. 80.

¹⁵² *Gallia Christiana*, XI. instr. 219.

are given,¹⁵³ and it would not be surprising if he served a Norman apprenticeship for his work as judge and Domesday commissioner in England.¹⁵⁴ It is clear that, contrary to Freeman's view of the exclusion of ecclesiastics from the Norman curia,¹⁵⁵ the bishops took an active part in its proceedings, and it is probably among them, rather than in the office of seneschal, that we should seek the origin of the English justiciarship.¹⁵⁶

If, in conclusion, we try to summarize the constitution of Normandy on the eve of the invasion of England, certain features stand out with reasonable clearness. The organization of Norman society is feudal, with the accompaniments of feudal tenure of land, feudal military organization and private justice, but it is a feudalism which is held in check by a strong ducal power. The military service owing to the duke has been systematically assessed and is regularly enforced. Castles can be built only by the duke's license and must be handed over to him on demand. Private war and the blood feud are carefully restricted, and private jurisdictions are restrained by the reserved jurisdiction of the duke and by the maintenance of a public local administration. The duke keeps a firm hand on the Norman Church, in the matter both of appointments and of jurisdiction. He holds the monopoly of coinage, and is able to collect a considerable part of his income in money. The administrative machinery, though in many respects still primitive, has kept pace with the duke's authority. His local representative, the *vicomte*, is a public officer and not a domanial agent; his revenues are regu-

¹⁵³ Delisle, nos. 36, 42; Round, no. 78. In the first two instances he is at the head of the body. The writ in Round, no. 464, evidently relates to England and not to Normandy, for an examination of the original in the archives of the Calvados shows that the archbishop's initial is not J but L (*i. e.*, Lanfranc).

¹⁵⁴ On his work in England see Round, *Feudal England*, pp. 133-134, 138, 460; Stubbs, *Constitutional History*, I. 375.

¹⁵⁵ *Norman Conquest*, I. 172, III. 290.

¹⁵⁶ Stubbs's view of the derivation of the justiciarship from the seneschalship (*l. c.*, I. 375) has also been criticized by Harcourt, *His Grace the Steward*, pp. 11-18, but on the untenable ground that William Fitz-Osbern "was never dapifer to William". In addition to the statements of the chroniclers, which Harcourt seeks to explain away, Fitz-Osbern witnesses as dapifer, along with the dapifer Gerold, in a charter for St. Ouen (Collection Moreau, XXII. 110v, from the original; Cartulary of St. Ouen, in archives of the Seine-Inférieure, 28 bis, no. 338), and issues a charter for St. Denis in which he styles himself "ego Willelmus Osborni filius consul et dapifer Willelmi Anglorum regis" (Archives Nationales, LL. 1158, p. 590). The problem of interest as regards Fitz-Osbern is not so much his seneschalship as his title of *comes palatii* and *magister militum* (Ordericus, II. 265; *Cartulaire de la Trinité*, no. 67) and his father's position as *procurator principalis domus* (William of Jumièges, ed. Duchesne, p. 268).

larly collected; and something has been done toward creating organs of fiscal control and of judicial administration. The system shows strength, and it shows organizing power. In some directions, as in the fixing of military obligations, this organizing force may have been at work before the Conqueror's time, but much must have been due to his efforts. Stark and stern and wrathful, whether we read of him in the classic phrases of William of Poitiers or in the simple speech of the Old English chronicle, the personality of William the Conqueror stands out pre-eminent in the midst of a conquering race, but it does not stand alone. The Norman barons shared the high-handed and masterful character of their leader, and the history of Norman rule in southern Italy and Sicily shows that the Norman genius for political organization was not confined to the dukes of Rouen. For William and for his followers the conquest of England only gave a wider field for qualities of state-building which had already shown themselves in Normandy.

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